

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**BROTHERS B AND B  
CONTRACTING, INC.,**

**Plaintiff,**

**v.**

**ACADIA INSURANCE COMPANY,**

**Defendant.**

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

**CIVIL ACTION NO. 4:16-CV-714**

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. § 1332, 28 U.S.C. § 1441, and 28 U.S.C. § 1446, Defendant Acadia Insurance Company (“Defendant” or “Acadia”) files this Notice of Removal, and in support thereof, states as follows:

1. Acadia is the only defendant in the state court action styled *Brothers B and B Contracting, Inc. v. Acadia Insurance Company*, Cause No. 141-285788-16, in the 141<sup>st</sup> District Court of Tarrant County, Texas (the “State Court Action”).

2. Plaintiff Brothers B and B Contracting, Inc. (“Plaintiff”) filed its Plaintiff’s Original Petition (the “Petition”) in the State Court Action on June 2, 2016. Acadia received, through service on its registered agent, the Citation and the Petition on June 29, 2016. (*See* Attachment 1-B). This Notice of Removal is therefore timely filed within thirty (30) days after the receipt by Acadia of a copy of the initial pleading and citation pursuant to 28 U.S.C. § 1446(b)(1).

3. This is a civil action over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1332(a)(1) and is one which may be removed to this Court pursuant to 28 U.S.C. §

1441(a), because the case is a civil action between citizens of different States, wherein the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

4. On information and belief, Plaintiff is a corporation organized and existing under the laws of the State of Texas with its principal place of business in the State of Texas, and therefore is deemed to be a citizen of the State of Texas.

5. Acadia is a corporation organized and existing under the laws of the State of New Hampshire with its principal place of business in the State of Maine, and therefore is deemed to be a citizen of the State of New Hampshire and the State of Maine.

6. Given the foregoing paragraphs 4. and 5., complete diversity of citizenship exists among the parties pursuant to 28 U.S.C. § 1332(a)(1), (c)(1).

7. In its Petition, Plaintiff contends that it is entitled to insurance coverage for a loss sustained by a third party, under the Commercial Lines Policy No. CPA 4665476 – 11 issued by Acadia to Plaintiff for the policy period from April 19, 2015 to April 19, 2016 (the “Policy”).

8. The amount in controversy in this action exceeds the \$75,000 threshold under 28 U.S.C. § 1332(a).

9. Specifically, the Petition expressly states that Plaintiff “seeks monetary relief over \$100,000.00, but not more than \$200,000.00.” (*See* Attachment 1-A ¶ 1.02). In addition to its claimed actual damages, Plaintiff seeks recovery from Acadia of treble damages under the Texas Insurance Code and the Texas Deceptive Trade Practices Act, statutory interest, and attorney’s fees. (*See id.* ¶¶ 5.03, 6.01, 6.03, and 8.01).

10. Consequently, the amount in controversy requirement under 28 U.S.C. § 1332(a) is satisfied by the total amount of recovery sought by Plaintiff from Acadia.

11. This Court therefore has original jurisdiction over this action under 28 U.S.C. § 1332(a), and removal of this action to this Court is proper under 28 U.S.C. § 1441.

12. Copies of all materials required by 28 U.S.C. § 1446(a) and Local Rule 81.1 are filed as attachments hereto.

13. For these reasons, this action is properly removable from the 141<sup>st</sup> District Court of Tarrant County, Texas, to the United States District Court for the Northern District of Texas, Fort Worth Division, such being the district and division where the State Court Action is pending.

14. Acadia will give notice of the filing of this Notice of Removal to all parties through their counsel of record and will file a copy of this Notice of Removal in the State Court Action, as required by 28 U.S.C. § 1446(d).

15. Acadia does not waive and specifically reserves any and all objections, exceptions, or defenses to the Petition.

Respectfully submitted,

By: /s/ J. Price Collins  
J. Price Collins  
Attorney-in-Charge  
State Bar No.: 04610700  
price.collins@wilsonelser.com  
WILSON ELSEER MOSKOWITZ EDELMAN &  
DICKER LLP  
901 Main Street, Suite 4800  
Dallas, TX 75202-3758  
Telephone: 214-698-8000  
Facsimile: 214-698-1101

Of Counsel:

Ashley F. Gilmore  
State Bar No.: 50511704  
ashley.gilmore@wilsonelser.com  
WILSON ELSE MOSKOWITZ EDELMAN & DICKER LLP  
901 Main Street, Suite 4800  
Dallas, Texas 75202-3758  
Telephone: 214-698-8000  
Facsimile: 214-698-1101

**ATTORNEYS FOR DEFENDANT  
ACADIA INSURANCE COMPANY**

**CERTIFICATE OF SERVICE**

On July 29, 2016, I electronically submitted the foregoing document with the clerk of the court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all counsel and/or *pro se* parties of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2):

Toby W. Burke  
HARRISON STECK, P.C.  
512 Main Street, Suite 1100  
Fort Worth, Texas 76102  
Facsimile: (817) 348-0406

**ATTORNEYS FOR PLAINTIFF  
BROTHERS B AND B CONTRACTING, INC.**

/s/ J. Price Collins

J. Price Collins